

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #9	CCRB Case #: 201904043	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/02/2019 11:45 PM	Location of Incident: Intersection of Greenwich Street and Barclay Street, and World Trade Tower 7	Precinct: 01	18 Mo. SOL 11/2/2020	EO SOL 6/19/2021	
Date/Time CV Reported Fri, 05/03/2019 11:06 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 05/10/2019 11:03 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Brian Holland	00000	921427	WTC CMD
2. POM Scott Johnson	11745	941370	WTC CMD

Officer(s)	Allegation	Investigator Recommendation
A.LT Brian Holland	Abuse: At the intersection of Greenwich Street and Barclay Street in Manhattan, Lieutenant Brian Holland threatened to issue a summons to § 87(2)(b)	
B.LT Brian Holland	Discourtesy: At the intersection of Greenwich Street and Barclay Street in Manhattan, Lieutenant Brian Holland spoke discourteously to § 87(2)(b)	
C.LT Brian Holland	Abuse: At the intersection of Greenwich Street and Barclay Street in Manhattan, Lieutenant Brian Holland stopped § 87(2)(b)	
D.LT Brian Holland	Off. Language: In the vicinity of World Trade Tower 7 in Manhattan, Lieutenant Brian Holland made remarks to § 87(2)(b) based upon race.	
E.POM Scott Johnson	Abuse: In the vicinity of World Trade Tower 7 in Manhattan, Police Officer Scott Johnson threatened to arrest § 87(2)(b)	

Case Summary

On May 3, 2019, § 87(2)(b) filed this complaint with the Internal Affairs Bureau (IAB). The Civilian Complaint Review Board received this complaint on May 10, 2019.

On May 2, 2019, at approximately 11:45 p.m., at the intersection of Greenwich Street and Barclay Street in Manhattan, Lieutenant Brian Holland of the World Trade Tower Command approached § 87(2)(b) whose vehicle was double parked. § 87(2)(b) was speaking with his girlfriend, § 87(2)(b). During their interaction, Lieutenant Holland threatened to issue § 87(2)(b) a summons (**Allegation A: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) drove the vehicle away. Lieutenant Holland spoke discourteously toward § 87(2)(b) (**Allegation B: Discourtesy**, § 87(2)(g)) and stopped § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g)).

Lieutenant Holland followed § 87(2)(b) to his workplace, World Trade Tower 7. During this interaction, Lieutenant Holland made remarks to § 87(2)(b) based upon race. (**Allegation D: Offensive Language**, § 87(2)(g)). After leaving World Trade Tower 7, Lieutenant Holland ordered Police Officer Scott Johnson, of the World Trade Tower Command, to go to the tower and speak with persons there. PO Johnson encountered § 87(2)(b) and threatened him with arrest (**Allegation E: Abuse of Authority**, § 87(2)(g)).

No arrests were made or summonses issued as a result of this incident.

Video footage was obtained for this case from security cameras at World Trade Tower 7 (Board Review 01)(Board Review 02)(Board Review 03). An audio recording was obtained for this case from § 87(2)(b) and was linked with relevant video footage (Board Review 04).

Findings and Recommendations

Allegation (A) Abuse of Authority: At the intersection of Greenwich Street and Barclay Street in Manhattan, Lieutenant Brian Holland threatened to issue a summons to § 87(2)(b)

It is undisputed that § 87(2)(b) driving his personal vehicle for non-commercial purposes, double-parked in a no standing zone. It is undisputed that Lieutenant Holland threatened to issue a summons to § 87(2)(b) for being double parked.

New York City Department of Transportation Traffic Rule § 4-08, (f)(1) states that no person may be double parked, excepting commercial vehicles in certain circumstances (Board Review 05).

§ 87(2)(g)

Allegation (B) Discourtesy: At the intersection of Greenwich Street and Barclay Street in Manhattan, Lieutenant Brian Holland spoke discourteously to § 87(2)(b)

Allegation (C) Abuse of Authority: At the intersection of Greenwich Street and Barclay Street in Manhattan, Lieutenant Brian Holland stopped § 87(2)(b)

It is undisputed that after § 87(2)(b) left the scene in § 87(2)(b)'s vehicle, Lieutenant Holland continued speaking to § 87(2)(b). It is also undisputed that § 87(2)(b) attempted to

walk away from Lieutenant Holland, that Lieutenant Holland instructed § 87(2)(b) to come back, and that § 87(2)(b) complied.

§ 87(2)(b) stated consistently in his initial call with IAB, his initial telephone statement to the CCRB, and his sworn statement to the CCRB that Lieutenant Holland stated, “Move your fucking car,” and “You’re fucking double parked,” prior to § 87(2)(b) leaving the scene and “Get the fuck back here” when § 87(2)(b) tried to walk away from Lieutenant Holland (Board Review 06)(Board Review 07).

§ 87(2)(b) stated over the phone to the CCRB that Lieutenant Holland used the word “fuck” multiple times while she was present. (Board Review 08)

In the audio recording § 87(2)(b) made during the incident, Lieutenant Holland states to § 87(2)(b) “I cursed at you because you were walking away from me. Because you were ignoring me. You disrespected me because you were walking away from me.” (Board Review 04)

Lieutenant Holland stated in his CCRB interview that he said to § 87(2)(b) “Excuse me, we’re having a conversation here. Don’t walk away from me.” He stated that he did not use profanity during the portion of the incident that § 87(2)(b) witnessed, and that he could not recall whether he used profanity during the portion of the incident immediately after she left (when § 87(2)(b) alleges he said, “Get the fuck back here.”). After listening to the audio recording of the incident and confirming that the voice on it was his own, Lieutenant Holland stated he told § 87(2)(b) “Get the hell back here.” He stated that he had not mentioned it in his earlier testimony because he did not consider “hell” to be a curse word. Lieutenant Holland stated both in the audio recording taken during the incident and in his CCRB interview that he told § 87(2)(b) to return to their conversation because he felt belittled and disrespected when § 87(2)(b) started walking away. He stated in his interview that he was not detaining § 87(2)(b) and that § 87(2)(b) had not committed a crime in their interactions. (Board Review 04)

NYPD Patrol Guide Procedure 203-09 (2) states that officers must be courteous and respectful in contact with the public. (Board Review 09)

NYPD Patrol Guide procedure 212-11 defines a Terry Stop (Level 3 Encounter) as, “any encounter between a civilian and a uniformed member of the service in which a reasonable person would not feel free to disregard the officer and walk away.” It further states, “A Level 3 encounter may take place even without the threat or use of physical force by the officer; whether an encounter amounts to a stop will be judged by the facts and circumstances of the encounter,” and that, “A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor.” (Board Review 10)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Allegation (D) Offensive Language: In the vicinity of World Trade Tower 7 in Manhattan, Lieutenant Brian Holland made remarks to § 87(2)(b) based upon race.

Lieutenant Holland identified his race as White/Hispanic. § 87(2)(b) and § 87(2)(b) identified their races as black. (Board Review 11)

§ 87(2)(b) stated in his initial statement to IAB that Lieutenant Holland stated to him, “I’ve dealt with your kind before – Bed Stuy, East New York.” § 87(2)(b) stated he replied, “I’m black. What other kind is there? Please do tell.” and Lieutenant Holland did not reply. In his sworn statement to the CCRB, § 87(2)(b) § 87(2)(g) stated Lieutenant Holland did not reply when asked what he meant, and stated he was on the phone with § 87(2)(b) at the time. (Board Review 06)

§ 87(2)(b) stated in her phone statement to the CCRB that while on the phone with § 87(2)(b) she heard Lieutenant Holland say, “I deal with your kind all the time – Brooklyn, East New York” and other places with “a high population of the black community.” (Board Review 08)

Lieutenant Holland stated in his CCRB interview that § 87(2)(b) made comments to him suggesting § 87(2)(b) felt his race was a factor in his interactions with Lieutenant Holland. Lieutenant Holland could not recall exactly what the comments were. Lieutenant Holland stated he replied to one such comment, “Listen, all you people are the same. You think the police are out here harassing you. It’s not like that. We’re out here to do a job. I’ve worked in Brooklyn – East New York, Bedford-Stuyvesant, Brownsville. I’ve worked in Queens – Jamaica Queens. I’ve worked all over the five boroughs. I treat everybody the same way.” Lieutenant Holland stated that he listed these neighborhoods because they were neighborhoods in which he has worked. He stated his intention was to communicate he has worked all over the five boroughs and can speak to how the general public behaves.

The NYPD Member of Service Wheel provided Lieutenant Holland’s career assignment history. Comparing it to maps of New York City shows that Lieutenant Holland has covered 17 neighborhoods in Brooklyn, 23 neighborhoods in Queens, and one neighborhood in Manhattan. His posting history does not identify any assignments in the Bronx or Staten Island. (Board Review 12)(Board Review 13)

According to New York City’s demographic database, CoreData.nyc, Lieutenant Holland has covered neighborhoods that are predominately White, predominately Hispanic, predominately Asian, and predominately Black. The neighborhoods Lieutenant Holland stated he listed – East New York, Bedford-Stuyvesant, Brownsville, and Jamaica Queens – are predominately Black. (Board Review 14)

NYPD Patrol Guide Procedure 203-10 forbids an officer from making discourteous or disrespectful remarks regarding another person’s race. (Board Review 15)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Police Officer Scott Johnson threatened to arrest § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) consistently stated that PO Johnson warned him Lieutenant Holland could have arrested § 87(2)(b) (Board Review 06)(Board Review 07)

PO Johnson stated he never mentioned arrest during his interactions with § 87(2)(b) PO Johnson stated he was not aware of any charge on which § 87(2)(b) could have been arrested. (Board Review 17)

Interactions between § 87(2)(b) and PO Johnson were captured on security footage from World Trade Tower 7, but there is no audio. Both § 87(2)(b)s and PO Johnson's descriptions of their interactions were corroborated by the video.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party.

- Lieutenant Holland has been a member of service for twenty years and has been a subject in five CCRB complaints and eleven allegations, none of which was substantiated.

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- As of July 18, 2019, according to the New York City Office of the Comptroller, § 87(2)(b) has not filed a Notice of Claim in relation to this incident. (Board Review 18)
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: _____

Investigator: _____

Signature	Print Title & Name	Date
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Squad Leader: _____

Signature	Print Title & Name	Date
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Reviewer: _____

Signature	Print Title & Name	Date
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